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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,095	02/22/2002	David Allen Loewenstein		2840

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06/30/2004

David A. Loewenstein
802 King Street
Rye Brook, NY 10573

EXAMINER

COLLINS, DOLORES R

ART UNIT PAPER NUMBER

3712

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/081,095	LOEWENSTEIN, DAVID ALLEN	
	Examiner	Art Unit	
	Dolores R. Collins	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 13 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 13 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 4 and 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Upon further consideration, the finality of the last office action has been withdrawn. A new action on the merits is presented below.

Examiner apologizes for the delay in prosecution.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Needler (592).

Needler discloses Playing cards.

Regarding Claim 1

Needler teaches cards that display a suit on one side (e.g., clubs) and both a suit and value on the other side (see figures 1 & 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needler. in view of Hoyt et al.

Regarding claim 2

Needler discloses Playing Cards And Games. His cards teach a suit on one side and suit and value on the other, but fail to explicitly teach cards with a non-descriptive back.

Hoyt et al. discloses Playing Cards And Method For Playing card Games Therewith. Hoyt teaches the limitation that Needler fails to teach, i.e., a deck of playing cards where some cards are standard cards with non-descriptive backs (see abstract, claims 3-10 & figures 1-3). It would be obvious in view of Hoyt to include cards with non-descriptive backs to add variety to the cards and add excitement to the game.

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3. Claims 3 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needler in view of Stanton and further in view of Hoyt et al.

Regarding claims 3 & 5

Needler discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other, but fail to explicitly teach that his cards are dealt in the shape of a diamond.

Stanton discloses Improvements in and relating to Playing cards. Stanton teaches cards with arranged into four suits on one side and values on the other side (page 1, lines 14-24 & figures1-4).

It would be obvious in view of Stanton to arrange the card to add excitement to the game played by the players.

Further, It would be obvious to deal cards in whatever shape that is desired since shape would constitute a design issue. Additionally, the dealing of cards in various shapes is well known in the art (e.g. in the game of *Memory* cards are dealt in the shape of a square, in the game of *Solitaire*, cards are ultimately dealt in the shape of a triangle.

Both Needler and Stanton fail to explicitly teach the exchanging of cards between hands and players being paid off according to a pay table.

Hoyt teaches game of poker played as one of the embodiments and that his cards are dealt certain locations and specific to the game of Tic-Tac-Toe. It is known that in the game of poker, cards are dealt face down, one or more bets

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are made, players are allowed to modify hands by exchanging cards and games are resolved using pay tables.

It would be further obvious in view of Hoyt to include his explicit to add excitement to the game played by the players.

4. Claims 13, 18 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needler in view of Moody.

Regarding Claims 13 & 19

Needler teaches cards that display a suit on one side (e.g., clubs) and both a suit and value on the other side (see figures 1 & 2). Moody discloses an Electronic Video Poker Game, which deals multiple rows. Moody's poker games allow players to select Poker hands, which could be 5 or 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Needler, not only to play poker games, to include an electronic version to add options and generate excitement for the players.

Regarding claim 18

Needler teaches cards that display a suit on one side (e.g., clubs) and both a suit and value on the other side (see figures 1 & 2). Moody discloses an Electronic Video Poker Game, which deals multiple rows. Moody's poker games allow players to select Poker hands, which could be 5 or 7 (a standard step in poker game play). It would have been obvious to one of ordinary skill in

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the art at the time the invention was made to modify Needler, to play poker games in order to generate excitement for the players.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needler in view of Moody as applied to claim 19 above, and further in view of Hoyt et al.

Needler discloses Playing Cards And Games. His cards teach a suit on one side and suit and value on the other, but fail to explicitly teach cards with a non-descriptive back.

Hoyt et al. discloses Playing Cards And Method For Playing card Games Therewith. Hoyt teaches the limitation that Needler fails to teach, i.e., a deck of playing cards where some cards are standard cards with non-descriptive backs (see abstract, claims 3-10 & figures 1-3). It would be obvious in view of Hoyt to include cards with non-descriptive backs to add variety to the cards and add excitement to the game.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needler.

Regarding claim 21

Needler discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other, but fail to explicitly teach that his cards are dealt in the shape of a diamond. It would be

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obvious to deal cards in whatever shape that is desired since shape would constitute a design issue. Additionally, the dealing of cards in various shapes is well known in the art (e.g. in the game of *Memory* cards are dealt in the shape of a square, in the game of *Solitaire*, cards are ultimately dealt in the shape of a triangle.

Allowable Subject Matter

7. Claims 4 & 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smyth, Jr., Barker, Loring, Kaga, Hoyt et al. (155), Weigl, Smith, jr. and Smith are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Dolores R. Collins** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **DERRIS BANKS** can be reached on **(703) 308-1745**.
The fax phone numbers for the organization where this application or proceeding is assigned are **(703) 305-3579** for regular communications and **(703) 305-3579** for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 308-1148**.



June 28, 2004



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700